

UNITED STATES DISTRICT COURT

EASTERN

DISTRICT OF

NEW YORK

Brady

EXHIBIT AND WITNESS LIST

v.
Wal-Mart Stores, Inc.

Case Number: CV03-3843 (JO)

PRESIDING JUDGE					PLAINTIFF'S ATTORNEY	DEFENDANT'S ATTORNEY
Judge James Orenstein					Douglas H. Wigdor/Michelle Le Roux	Joel Finger/Michael Kessel
TRIAL DATE(S)					COURT REPORTER	COURTROOM DEPUTY
2/16/05 -					Harry Rapaport/Buren Wicker	Michele Dasaro
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES	
✓		2/16/05			(Witness) Frank Albergo	
✓		2/16/05			(Witness) Sally Salvo	
✓		2/16/05			(Witness) Patrick Sean Brady	
5		2/16/05	✓	✓	Triple C Award dtd 5/00	
9		2/16/05	✓	✓	1 page job application	
12		2/16/05	✓	✓	Egan's Interview Notes 7/31/02	
13		2/16/05	✓	✓	Salesfloor Associate job Description	
23		2/16/05	✓	✓	Associate Scheduling Availability	
14		2/16/05	✓	✓	Little's Interview Notes	
16		2/16/05	✓	✓	People Pass Drug test form dtd 8/4/02	
17		2/16/05	✓	✓	Alcohol & Drug Abuse Policy Acknowledgment dtd 8/8/02	
22		2/16/05	✓	✓	Brady's CBH Scores	
18		2/16/05	✓	✓	New Associate Orientation Checklist	
20		2/16/05	✓	✓	New Associate Risk Control Checklist	
42		2/16/05	✓	✓	Brady's Suffolk County Community College Transcript	
	B	2/16/05	✓	✓	Our people make the difference application signed by Brady 7/16/02	
					of employment	
	D	2/16/05	✓	✓	Signed Acknowledgment Notification pg for the Wal-Mart Associate Handbook	
24		2/17/05	✓	✓	Hours Worked Report 8/10/02 - 8/23/02	
25		2/17/05	✓	✓	Hours Worked Report 8/24/02 - 9/6/02	
15		2/17/05	✓	✓	Drug test Results	

* Include a notation as to the location of any exhibit not held with the case file or not available because of size.

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2/16/05-					Owen Wlicker/Harry Rapaport	Michele Dawson
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES	
32		2/17/05	✓	✓	Associate Pay Guidelines	
✓		2/17/05			(Witness) Patrick J. Brady (Father)	
✓		2/17/05			(Witness) Karen Brady	
✓		2/17/05			(Witness) Joan Little	
46		2/17/05	✓	✓	Little's CBL Scores	
33		2/17/05	✓	✓	Coaching for Improvement Policy	
53		2/17/05	✓	✓	Wal-Mart's five answers to common job description & Matrix questions	
11		2/17/05	✓	✓	Notice of Non-Discrimination	
19		2/17/05			Brady Hourly Associate information sheet dtd 8/4/00	
✓		2/17/05			Dr. Gujwarty (expert)	
10		2/17/05	✓	✓	Procedure for Requesting Reasonable Accommodation	
23		2/17/05	✓	✓	Reference Check	
43		2/17/05	✓	✓	Bowen's CBL Scores	
44		2/17/05	✓	✓	Egan's CBL Scores	
45		2/17/05	✓	✓	Bates' CBL Scores	
47		2/17/05	✓	✓	Wicks' CBL Scores	
48		2/17/05	✓	✓	Chin's CBL Scores	
* 6		2/17/05	✓	✓	Personnel Manager Training Series Video (redacted)	
36		2/17/05	✓	✓	California Consent Decree	
	✓	2/18/05			Yem Hung Chin (witness)	
	✓				(Witness) James Bowen	
	NN	2/18/05	✓	✓	Supervisor	

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*video tape will not go into Jury Room

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NEW YORK

Case Number: CVO3-3843 (Jo)

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
PATRICK S. BRADY,

Plaintiff,

- against -

WAL-MART STORES, INC.,
YEM HUNG CHIN, and JAMES BOWEN,

Defendants.
-----X

VERDICT SHEET

CV 03-3843 (JO)

JAMES ORENSTEIN, Magistrate Judge:

According to the principles of law as charged by the Court and the facts as you find them,
please answer the following questions:

SECTION 1: Disability Discrimination (All Defendants)

QUESTION 1-A (Federal Law Claim Against Wal-Mart):

Did the Plaintiff prove that he is disabled within the meaning of the federal anti-discrimination law and that his employer Wal-Mart subjected him to an adverse employment action on the basis of his actual or perceived disability?

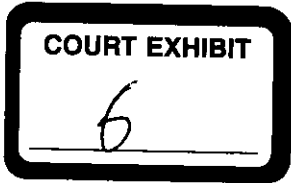
YES ☒ NO ☐

QUESTION 1-B (State Law Claim Against Wal-Mart):

Did the Plaintiff prove that his employer Wal-Mart subjected him to an adverse employment action on the basis of his disability?

YES ☒ NO ☐

**INSTRUCTION: ONLY ANSWER QUESTIONS 1-C THROUGH 1-E IF
YOU ANSWERED "YES" TO QUESTION 1-A OR QUESTION 1-B
ABOVE, OR BOTH.**



QUESTION 1-C:

Please indicate which adverse employment action(s) you find that the Plaintiff proved.

ACTION	PROVED	NOT PROVED
a. Transfer to cart-pushing	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Transfer to food department	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Hostile work environment	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Constructive discharge	<input type="checkbox"/>	<input checked="" type="checkbox"/>

QUESTION 1-D (Yem Chin):

Did the Plaintiff prove that defendant Yem Hung Chin participated in the conduct giving rise to the proven claim of discrimination by Wal-Mart?

YES ☒ NO ☐

QUESTION 1-E (James Bowen):

Did the Plaintiff prove that defendant James Bowen participated in the conduct giving rise to the proven claim of discrimination by Wal-Mart?

YES ☐ NO ☒

SECTION 2: Failure to Provide Reasonable Accommodation (Wal-Mart only)

QUESTION 2:

Did the Plaintiff prove that Wal-Mart knew or should have known that it had a duty to offer the Plaintiff a reasonable accommodation for his actual or perceived disability?

YES ☒ NO ☐

SECTION 3: Violation Of Federal Law In The Job Application Process (Wal-Mart only)

QUESTION 3-A:

Did the Plaintiff prove that Wal-Mart made a prohibited inquiry during the course of the Plaintiff's job application?

YES X NO

QUESTION 3-B:

Please indicate which prohibited inquiry (or inquiries) you find that the Plaintiff proved was made before he received a conditional job offer.

INQUIRY	PROVED	NOT PROVED
a. Prescription medications	<u> </u>	<u> ✓ </u>
b. Job description inquiry	<u> X </u>	<u> </u>

SECTION 4: Intentional Infliction of Emotional Distress (All Defendants)

QUESTION 4-A (Wal-Mart):

Did the Plaintiff prove that Defendant Wal-Mart intentionally or recklessly engaged in extreme and outrageous conduct that caused him to suffer extreme emotional distress?

YES NO ✓

QUESTION 4-B (Yem Hung Chin):

Did the Plaintiff prove that Defendant Yem Hung Chin intentionally or recklessly engaged in extreme and outrageous conduct that caused him to suffer extreme emotional distress?

YES NO ✓

QUESTION 4-C (James Bowen):

Did the Plaintiff prove that Defendant James Bowen intentionally or recklessly engaged in extreme and outrageous conduct that caused him to suffer extreme emotional distress?

YES _____ NO ✓

SECTION 5: Damages

QUESTION 5-A. INSTRUCTION: Answer Question 5-A only if your answer is "YES" to one or more of the following questions: Question 1-A, Question 1-B, Question 2.

Please indicate the amount of economic damages, if any, to which the Plaintiff is entitled:

\$ 5,265.⁰⁰ + 3849.30 - 9,114.⁰⁰

QUESTION 5-B. INSTRUCTION: Answer Question 5-B only if your answer is "YES" to one or more of the following questions: Question 1-A, Question 1-B, Question 2, Question 4-A.

Please indicate the amount of compensatory damages, if any, to which the Plaintiff is entitled:

\$ 2.5 million

QUESTION 5-C.

Is the Plaintiff entitled to one dollar in nominal damages on any claim?

YES ✓ NO _____

If the answer is "YES," which claim or claims?

CLAIM	YES	NO
1-A	_____	<u>✓</u>
1-B	_____	<u>✓</u>
2	<u>✓</u>	_____
3	<u>✓</u>	_____

QUESTION 5-D. INSTRUCTION: Answer Question 5-D only if your answer is "YES" to Question 1-A.

Please indicate the amount of punitive damages, if any, to which the Plaintiff is entitled based on the claim of disability discrimination under the federal anti-discrimination law:

\$ 4.5 million

QUESTION 5-E. INSTRUCTION: Answer Question 5-E only if your answer is "YES" to Question 2.

Please indicate the amount of punitive damages, if any, to which the Plaintiff is entitled based on the claim of failure to provide a reasonable accommodation for an actual or perceived disability under the federal anti-discrimination law:

\$ \$ 250,000

QUESTION 5-F.

Please indicate the amount of punitive damages, if any, to which the Plaintiff is entitled based on the claim of violations of the federal anti-discrimination law in the job application process:

CLAIM	AMOUNT
Prescription Medications Inquiry (answer only if proven)	\$ <u>Ø</u>
Job Description Inquiry (proven, please answer)	\$ <u>250,000</u>
TOTAL	\$ <u>250,000</u>

QUESTION 5-G. INSTRUCTION: Answer Question 5-G only if your answer is "YES" to one or more of the following questions: Question 4-A, Question 4-B, Question 4-C.

Please indicate the amount of punitive damages, if any, to which the Plaintiff is entitled based on the claim of intentional infliction of emotional duress:

\$ Ø

QUESTION 5-H. INSTRUCTION: Answer Question 5-H only if you answered more than one of Questions 5-A through 5-G.

Please indicate the total amount of punitive damages, if any, to which the Plaintiff is entitled based on all the eligible claims you find he has proven:

\$ 5 million

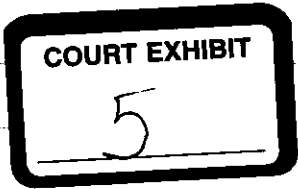
FINAL INSTRUCTIONS: Once you have completed this form, the jury's foreperson should sign and date it. Then advise the Court by note that you have reached a verdict and that you are ready to return to the courtroom to announce your verdict.

Dated: Central Islip, New York
2/23/, 2005
(date)

Victoria Perelmutter
FOREPERSON

We have a Verdict

Victoria Perelmutter



**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X

PATRICK S. BRADY,

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- against -

CV 03-3843 (JO)

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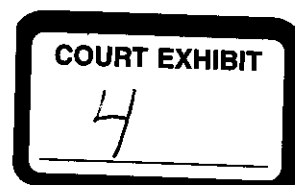
JAMES ORENSTEIN, Magistrate Judge:

Ladies and gentlemen of the jury, I have received your note asking whether, "on section D, 'the intentional infliction of emotional distress claim,'" you "must ... be unanimous on all four elements." The answer to your question is yes. You must be unanimous as to each element of each claim, and you must be unanimous in each entry you make on the verdict sheet.

Dated: Central Islip, New York
February 23, 2005



JAMES ORENSTEIN
United States Magistrate Judge



On section D "The intentional
infliction of Emotional Distress
Claim" must we ~~be~~ be
unanimous on all four
elements "A"

Victoria Perlmutter

Page 16 bottom

First

Second

Top 17

Third

Fourth

COURT EXHIBIT

3

We would like to have a
read back of Mrs. Chin's testimony.

Victoria Perelmutter



Junior #3 needs to make a
phone call to cancel a
Doctor's appt.

Preperson
Victoria Belmutter

COURT EXHIBIT

1